

# White House Rolls Back China Duties as Supreme Court Weighs IEEPA Authority

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On November 4, President Trump issued two executive orders that: (1) [continued](#) the 10% baseline reciprocal tariff rate on certain Chinese-origin imports into the U.S. until November 10, 2026; and (2) [reduced](#) from 20% to 10% the additional fentanyl-related tariff on Chinese products established under Executive Order 14195 and modified by Executive Order 14228 (China IEEPA Fentanyl Tariff). All of these duties were issued pursuant to the International Emergency Economic Powers Act (IEEPA). These actions implement the terms of a [recent U.S.-China trade and economic deal](#) (the U.S.-China Trade Deal) and explicitly preserve the administration's authority to re-impose or increase duties if China fails to meet its commitments.

Meanwhile, on November 5, the Supreme Court of the United States (SCOTUS) heard oral argument in the consolidated IEEPA tariff challenge we discussed in our [prior alert](#). Justices questioned whether IEEPA authorizes tariffs of this breadth, questioned the government's delegation theory, and focused on whether the measures amount to a tax or major policy decision requiring clear congressional authorization. SCOTUS' eventual ruling will determine the legality of these tariffs and future executive reliance on IEEPA for the imposition of tariffs.

## U.S.-China Trade Deal

The White House announced the U.S.-China Trade Deal that, if implemented, would ease near-term frictions and expand market access while addressing supply chain concerns. China committed to "halt the flow" of fentanyl precursors to the United States, "effectively eliminate" China's "current and proposed" export controls on rare earths and other critical minerals by issuing general licenses "for the benefit of U.S. end users and their suppliers around the world," "end" retaliation against U.S. semiconductor firms "and other major U.S. companies," and restore critical legacy chip trade. China also agreed to suspend wide-ranging retaliatory tariffs and non-tariff measures (including unreliable entity listings), extend its market-based tariff exclusion process for U.S. imports through December 31, 2026, terminate investigations targeting U.S. semiconductor supply-chain companies, and make substantial purchases of U.S. agricultural products.

In parallel, the United States agreed to lower the China IEEPA Fentanyl Tariff rate, maintain the suspension of heightened reciprocal tariffs through November 10, 2026, and suspend for one year the U.S. Trade Representative's [responsive actions](#) following an investigation under Section 301 of the U.S. Trade Act of 1974 (Section 301) into China's maritime, logistics, and shipbuilding sectors starting November 10. Furthermore, the U.S. has agreed to pause for one year the interim final rule titled "[Expansion of End-User Controls to Cover Affiliates of Certain Listed Entities](#)" and extend certain Section 301 tariff exclusions, originally set to expire November 29, 2025, through November 10, 2026.

## Reciprocal Tariff on Chinese Imports

Under the November 4 executive order, “[Modifying Reciprocal Tariff Rates Consistent With the Economic and Trade Arrangement Between the United States and the People's Republic of China](#)” (the Reciprocal Tariff Order), President Trump again extended the suspension of the heightened 34% reciprocal tariff on certain Chinese?origin imports — originally imposed under [Executive Order 14257 and amended by Executive Orders 14259, 14266, 14298, and 14334](#) — through 12:01 a.m. EST on November 10, 2026. As a result, the current 10% reciprocal tariff on those Chinese?origin goods will remain in effect until at least the deadline, unless modified earlier. The Reciprocal Tariff Order continues the suspension of heading 9903.01.63 and the listed Harmonized Tariff Schedule of the United States (HTSUS) note subdivisions through the deadline and instructs federal agencies to monitor China’s implementation of its commitments under the U.S.-China Trade Deal.

## China IEEPA Fentanyl Tariff

As a result of China’s commitment to take “significant measures” to end the flow of fentanyl to the United States, President Trump issued the November 4 executive order, “[Modifying Duties Addressing the Synthetic Opioid Supply Chain in the People's Republic of China](#)” (the China IEEPA Fentanyl Tariff Order), which lowers the China IEEPA Fentanyl Tariff effective rate to 10% (from 20%) for goods entered for consumption (or withdrawn from warehouse for consumption) on or after 12:01 a.m. EST on November 10, 2025. If China fails to meet its commitments under the U.S.-China Trade Deal, the administration may reinstitute the China IEEPA Fentanyl Tariff rates. The China IEEPA Fentanyl Tariff Order does not expand the product scope; it only reduces the rate for the set of articles already designated under Executive Order 14195 and modified by Executive Order 14228.

## IEEPA Supreme Court Case

On November 5, the SCOTUS heard consolidated challenges to the administration’s authority to issue tariffs under IEEPA, which include both the broad reciprocal tariffs and the migration- and fentanyl-related tariffs (the IEEPA Tariffs). As we discussed in [previous client alerts](#), the courts below (including the Court of International Trade and the U.S. Court of Appeals for the Federal Circuit) struck down these tariffs and limited the president’s authority to issue tariffs under IEEPA. The Trump administration appealed the decision to the SCOTUS.

Several justices of the SCOTUS noted that IEEPA does not contain explicit statutory language authorizing the president to impose tariffs, and many questioned whether Congress had delegated such sweeping taxing authority to the Executive. Framing the dispute as a major-questions issue, the Court pressed whether exercises of vast economic and political significance require clear congressional authorization, and probed the separation-of-powers issue — specifically, the allocation of Article I taxing and commerce powers versus Article II foreign affairs and emergency authorities.

Chief Justice Roberts asked: “Who pays the tariffs?” — testing whether the measures function as revenue-raising instruments that would require congressional authorization. The U.S. solicitor general responded that the tariffs are regulatory tools aimed at altering behavior and addressing national emergencies, acknowledging incidental revenue effects but disputing that American consumers invariably bear the full economic burden.

Justice Sotomayor highlighted Congress’ use of explicit “tariff” or tax language in other statutes and questioned

why IEEPA's "regulate" language should be read to include taxation; the government urged a broad reading of "regulate" grounded in longstanding national-security practice, while Sotomayor emphasized the drafting distinction between regulation and taxation.

Justice Gorsuch warned about the risk of unchecked executive authority if broad tariff power is read into IEEPA, given Congress' practical difficulty in "taking back" delegated powers; the government pointed to political checks such as joint resolutions and repeal, though the prospect of veto remained a friction point.

Justice Kavanaugh pushed for doctrinal consistency, probing textual and precedential differences — including Nixon-era Trading with the Enemy Act of 1917 cases — while petitioners argued the scale and duration of the recent executive actions far exceed the limited historical practice.

Justice Barrett questioned whether the government could rely on alternative foreign-affairs tools (licensing, export controls, embargoes) rather than tariffs; petitioners maintained that any sweeping taxing authority must come from Congress, and the government countered that IEEPA was the chosen vehicle to address these declared emergencies and that other tools were inadequate.

The government has urged the tariffs as regulatory emergency measures grounded in national-security needs rather than traditional taxes, while petitioners emphasized textual limits on delegation and the primacy of Article I's taxing power. SCOTUS appears focused on whether IEEPA's "regulate" language can encompass tariffs and whether measures of such broad economic scope require clear congressional authorization.

If SCOTUS rules against the administration, a decision invalidating the IEEPA Tariffs could open the door to refunds of duties already collected; however, refunds may not be automatic and may require the importer of record to affirmatively request relief through CBP processes, which would create substantial administrative complexity for CBP and the U.S. Department of the Treasury and constrain the administration's ability to use IEEPA to impose similar tariff measures in the future. Conversely, a ruling against the petitioners would validate the administration's approach.

Importers with significant duty exposure should prepare for continued tariff enforcement — whether under IEEPA if SCOTUS upholds the administration's position, or under a different statutory authority if SCOTUS rules against the administration — and for a potential post?decision refund and liquidation process.

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